

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF JAMES A. WILSON § No. 130, 2011
FOR A WRIT OF MANDAMUS §

Submitted: April 21, 2011
Decided: May 25, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 25th day of May 2011, it appears to the Court that:

(1) The petitioner, James A. Wilson, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus¹ to compel the Superior Court to, in turn, compel the Department of Correction to release him from incarceration. The State of Delaware has filed an answer requesting that Wilson's petition be dismissed. We find that Wilson's petition manifestly fails to invoke this Court's original jurisdiction. Accordingly, the petition must be dismissed.

(2) The record before us reflects that, at the time Wilson's petition was filed, he was serving a 6-month, Level V sentence at the Howard R. Young Correctional Institution on a drug-related conviction in Cr. A. No. IN00-01-0069. On March 17, 2011, Wilson completed his Level V sentence and is now serving the Level IV portion of his sentence at the Central

¹ Del. Const. art. IV, §11(5); Supr. Ct. R. 43.

Violation of Probation (“CVOP”) Center in Smyrna, Delaware. According to Wilson, as of March 3, 2011, he had served all of his Level V time and, instead of being transferred to Level IV CVOP, he should have been placed either at Level IV work release or Level III probation.

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.² As a condition precedent to the issuance of the writ, the petitioner must demonstrate that a) he has a clear right to the performance of the duty; b) no other adequate remedy is available; and c) the trial court has arbitrarily failed or refused to perform its duty.³ This Court only has authority to issue a writ of mandamus to a trial court or a judge thereof.⁴ A writ of mandamus will not issue to compel a trial court to perform a particular function or to decide a matter in a particular way.⁵

(4) There is no basis for the issuance of a writ of mandamus in this case. Wilson has failed to demonstrate that he has a clear right to the remedy he seeks and that the Superior Court has arbitrarily failed or refused to perform a duty owed to him. Wilson’s petition must, therefore, be dismissed.

² *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

³ *Id.*

⁴ Del. Const. art. IV, §11(5).

⁵ *In re Bordley*, 545 A.2d at 620.

NOW, THEREFORE, IT IS ORDERED that the petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice